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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,072	02/16/2001	Moshe Benyami	70207	3067

22242 7590 03/03/2003

FITCH EVEN TABIN AND FLANNERY
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SUITE 1600
CHICAGO, IL 60603-3406

EXAMINER

CHAMBERS, TROY

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 03/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/785,072

Applicant(s)

BENYAMI ET AL.

Examiner

Troy Chambers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6,8-13,17 and 19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1,6,8-13,17 and 19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 1, 6, 8-13, 17 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 1 recites "a carrying board having a honeycomb form". But, the remaining portions of the claim make reference to "polygonal apertures" and "a body having a corresponding polygonal shape". However, if the carrying board has a "honeycomb form" then the apertures and bodies contained therein would necessarily have a honeycomb configuration as well. In its present form, applicant's claim is indefinite because bodies of any shape are required to fit into a carrying board with a honeycomb form.
4. Claim 1 recites, "a body having a corresponding polygonal shape" in the latter portion of the claim. It is never proper to introduce a new element of the claim in the middle of the description of another element. This is referred to as "inferential claiming." Each element must be positively set out in a separate clause.
5. Claim 9 recites the limitation "the thickness" in line 2. There is insufficient antecedent basis for this limitation in the claim.

6. Claims 13 and 19 recites "about 0.5 to 1mm". Because there is no unit of measurement associated with the 0.5 numeral it is unclear what applicant intends to be the lowest term of the range.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 8, 9, 12, 13, 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 91/07632 issued to Lem. Lem discloses a ballistic armor panel comprising a carrying board 14, 16 having a honeycomb form (pg. 6, ll. 4-13) and made of a hard material (pg. 9, ln. 17 to pg. 10, ln. 17) with a plurality of through-going polygonal apertures, each aperture receiving a ceramic body 20 (pg. 4, ln. 26 to pg. 5, ln. 36). An adhesive fixes the bodies 20 to the carrying board 14, 16 (pg. 11, ll. 5-10). The top of the bodies are flush with the top of the carrying board 14, 16 and thus do not exceed the thickness (in height) of the carrying board 14, 16. The ballistic armor panel includes a layer of resilient material 18, 32 between an object and the carrying board 14, 16. In a disclosed example, Lem disclosed a wall thickness of 0.15 cm (this will anticipate applicants Claims 13 and 19 until the 112 (2) issue is corrected).

Allowable Subject Matter

8. Claims 6, 10 and 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all

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of the limitations of the base claim and any intervening claims. However, applicant should note that U.S. Patent No. 5014593 issued to Auyer may be applicable if applicant amends to remove the honeycomb limitation and does not amend to positively set out "a body having a corresponding polygonal shape".

Conclusion

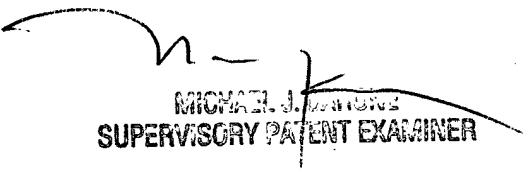
9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Chambers whose telephone number is (703) 308-5870. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone, can be reached at (703) 306-4198.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177. The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4195.



MICHAEL J. DONOHUE
SUPERVISORY PATENT EXAMINER